



## **Virginia ABC Enforcement Expert Review Panel**

**July 8, 2015  
2:00 PM – 5:00 PM**

**State Capitol  
Senate Room 3**

### **DRAFT MEETING MINUTES**

#### **Members Present:**

Travis Hill, Chief Operating Officer for the Virginia Department of Alcoholic Beverage Control  
Ryant Washington, Special Policy Advisor for Law Enforcement for the Virginia Department of Alcoholic Beverage Control  
Francine Ecker, Director Virginia Department of Criminal Justice Services  
Wesley Reed, Sheriff Prince Edward County  
Kevin Foust, Chief of Police at Virginia Tech  
Robert Archer, President and Chief Executive Officer for Blue Ridge Beverage  
Hayes Humphreys, Chief Operating Officer for Devil's Backbone  
Laura Habr, Co-Owner of Croc's 19th Street Bistro  
Christopher Konschak, Manager for MADD Virginia  
Kurt Erickson, President at Washington Regional Alcohol Program  
Abraham Axler President at University of Virginia Student Council  
Christopher Jones, Mayor City of Harrisonburg  
Barry Knight, Virginia House of Delegates, 81st District  
W. Steve Flaherty, Superintendent Virginia State Police  
Michael Herring, Commonwealth's Attorney for the City of Richmond  
Donald Goodman, Chief of Police for the City of Radford

#### **Members Absent:**

Mamie Locke, Virginia State Senator, 2nd District, Hanover  
Paige Hawkins, Substance Abuse Prevention Specialist at James Madison University  
Ryan McDougle, Virginia State Senator, 2nd District, Hampton

#### **2:07 Opening Remarks:**

Brian Moran, Secretary of Public Safety and Homeland Security called the meeting to order, welcomed members of the public and thanked the expert review panel for their work and participation. Delegate Barry Knight introduced himself to the group, attending his first meeting and replacing member Dave Albo, whose schedule did not allow him to continue participating.

Secretary Moran reviewed the agenda which included a discussion of the MOU for VA ABC, law enforcement perspectives on ABC, a review of the Martese Johnson case, and representatives from the Three-Tier System on ABC Law Enforcement.

### **2:14 June 8, 2015 Meeting Re-Cap and Review of Minutes**

Secretary Moran made a motion to accept the June 8, 2015 meeting minutes and the motion was seconded and unanimously approved.

### **Presentations:**

The panel heard a number of presentations. A summary of each presentation, as well as the panel members' questions, information requests and comments follow:

#### **Presentation #1 - *ABC and Local Law Enforcement Model MOU***

**Chief Ryant Washington, Special Policy Advisor on Law Enforcement, Virginia Department of ABC**

**Teresa Gooch, Division Director for Law Enforcement and Security Services, DCJS**

Ms. Gooch and Chief Washington provided information to the group on the development of the Model MOU. The four goals of the MOU are effective communication, increased collaboration, establishment of clear expectations and responsibilities, and flexibility for localities working with ABC enforcement. They expressed that ABC will develop individual, locality-specific MOUs based on local needs and concerns.

### **Panel Member Questions:**

*Secretary Moran asked that the MOUs be enacted by the beginning of the semester in August.*

Chief Washington stated that ABC will work diligently to meet that deadline.

#### **Presentation #2 - *Colonel Steven Flaherty, Superintendent, Virginia State Police***

*Law Enforcement Perspectives on ABC.*

Colonel Flaherty stated that the Virginia State Police (VSP) would encounter significant challenges if ABC's Bureau of Law Enforcement transitioned to the agency. He stated that if the decision to transfer authority to VSP was undertaken a separate division would be created to ensure proper focus on ABC law enforcement and related functions. He also indicated that such transfer would not address the fact that there are currently insufficient personnel in both ABC and VSP to perform their required duties and the transfer would not change that. Both ABC's Special Agents and the VSP would need to undergo significant additional training if there was such a merger. He shared data demonstrating significant differences in pay grades between ABC Agents and the VSP, as well as additional HR and IT needs that would need to be identified and addressed.

### **Panel Member Questions:**

*Mr. Erickson asked where ABC enforcement should belong and whether Colonel Flaherty has any concerns about ABC's ability to properly manage enforcement.* Colonel Flaherty stated that the VSP works very close with ABC and is confident they are able to manage their responsibilities. He shared concerns about absorbing regulatory and enforcement responsibilities of alcohol because the VSP functions differently than ABC.

**Dana Schrad, Executive Director, Virginia Association of Chiefs of Police** *Law Enforcement Perspectives on ABC (part 2).*

Ms. Schrad stated that the VACP sees ABC as a partner and that in 2013 they shared concerns with the agency regarding their practices. They recommended that agents wear law enforcement uniforms and body cameras and agents provide meaningful notice prior to engaging in enforcement on campuses or in communities. They also recommended that ABC enforcement focus their primary efforts on unlicensed and problem establishments from a regulatory perspective. She stated that they do not support ABC being stripped of their law enforcement authority.

**John Jones, Executive Directors, Virginia Sheriff's Association** *Law Enforcement Perspectives on ABC (part 3).*

Mr. Jones expressed that in requesting statements from numerous Virginia Sheriffs, he learned that there are no sheriffs who wish for ABC to be stripped of their enforcement powers. He stated that ABC officers are specialized and resources would have to be considered due to the lack of specialization in other organizations in the alcohol enforcement area. Sheriffs expressed they do not have the resources to take on that job without additional funding. Currently, there are 202 deputy sheriff position shortages in 86 counties where sheriffs are the primary law enforcement. He proposed that if an ABC officer is involved in inappropriate activity or acting outside the scope of their duties, then ABC should be able to decertify the officer.

**Panel Members Questions/Comments:**

*Delegate Barry Knight stated that it is hard to close problem establishments and he wants to see ABC officers go after the establishment instead of going after the individual. How many campuses do not have campus police? Is there anything ABC can do that other policing agencies cannot do?* It is required for 4-year public colleges and universities to have their own police department, not all community colleges have them, and private colleges and universities are not obligated to have their own police department. Randolph Macon and Roanoke College rely heavily on ABC, state and local agencies. ABC is the best resource because they specialize in alcohol enforcement.

Mr. Archer stated that if emphasis is going to be put on alcohol, then you must have an agency that specializes in alcohol.

*Ms. Habr asked if ABC merges with the VSP, what would the downtime?* Colonel Flaherty stated that the agency would have to train part of the force at a time to reduce the downtime so that business could continue as usual.

**Presentation #3 - A Review and Discussion of the Martese Johnson Case**  
**The Honorable Dave Chapman, Commonwealth Attorney for the City of Charlottesville**

CA Dave Chapman stated that before jumping to conclusions about an event, the facts have to be presented. He expressed that the events that occurred in Charlottesville are not unique to ABC. He summarized the facts of the case, based on dozens of eyewitness interviews conducted by the Virginia State Police. He concluded that none of the officers committed any criminal offenses and there was no evidence that presented that the

officers were motivated racially. He further indicated that, although Martese Johnson did, clearly, commit an offense of resisting arrest, that in his opinion, it did not serve good purpose or benefit the community to prosecute that crime.

**Panel Members Questions/Comments:**

*Mr. Axler asked if there was an investigation of the demographics of other people arrested by the same officers that night.* CA Chapman stated that he was not in the position to give hard numbers.

In response to Mr. Axler's question, COO Travis Hill stated that of the people arrested by ABC officers, 76% are white and 21% are African American.

*Mr. Erickson asked if Martese Johnson stated why he did not remember his zip code. Is a sober person less likely to resist arrest?* CA Chapman stated that he had forgotten his zip code due to a recent move. CA Chapman said that based on his experience, a sober person is less likely than a person under the influence to use force.

**Presentation 4 - Tom Lisk, Esq., Ekert Seamans Attorneys at Law Three-Tier System Representatives Perspectives on ABC Law Enforcement.**

Mr. Lisk stated that as a representative from the retail tier, he views ABC as well trained and professional. He feels their job is to regulate alcohol and the Martese Johnson case is not common, or unique to ABC. He expressed that the General Assembly set alcohol violations as Class 1 misdemeanors and it is ABC's and any law enforcement agency's duty to enforce the laws. He also stated that the agents are equipped to meet the mission statewide. He also shared that ABC has extremely limited resources.

**Walter Marston, Esq., Marston and McNally P.C Three-Tier System Representatives Perspectives on ABC Law Enforcement (part 2).**

Mr. Marston stated that within the wholesale industry, ABC is viewed positively. ABC regulates who ships alcohol in and out of Virginia and they know exactly where the alcohol is going. ABC also addresses issues like bribery.

**Ann Heidig Lake Anna Winery Three-Tier System Representatives Perspectives on ABC Law Enforcement (part 3).**

Ms. Heidig stated that as a part of the wine industry, tourism is a big attraction around the state and that wineries would not be able to do their jobs without enforcement. ABC has participated in meetings statewide where they discussed ways of doing business and ABC answered questions to ensure licensees would not be in violation. She expressed her concern that if the MOUs differ by locality, it may be confusing since they travel around the state of Virginia. She also stated that Spotsylvania is not in the current position to adopt ABC responsibilities because they do not have the resources.

**Mary Beth Williams, President, Williams Compliance and Consulting Group, LLC Three-Tier System Representatives Perspectives on ABC Law Enforcement (part 4).**

Ms. Williams stated that as a part of the supplier tier, they work throughout the country and not just the state of Virginia. She stated that Virginia ABC is among the best that she has worked with and she's worked with well over 1000 law enforcement officials. She

expressed that they are short-staffed and often work long hours. After receiving ABC input, they (wineries) are now on the same page. She shared that states with bifurcated systems are the most difficult to work with due to the lack of uniformity.

#### **4:50 Discussion and Next Steps**

Secretary Moran asked panel members for any recommendations regarding what should be discussed at the next meeting.

*Mr. Archer requested that a bullet point list of things to be discussed at the August meeting to be composed to discuss the recommendations to the governor.*

*Mr. Korschak wants to if funding would also be transferred if ABC enforcement was transferred. He also asked if alcohol would remain the primary focus if enforcement was shifted.*

*Delegate Knight asked what tools localities have at their disposal to close problem establishments.*

In response to Delegate Knight, COO Travis Hill stated that they welcome calls from areas that have problems and will assist localities in working through them. He sees ABC as partners with local jurisdictions.

Mayor Christopher Jones expressed that he wants to see ABC exchange their guns for pencils. He stressed that positive comments towards ABC are great, but the public needs to walk away with the perception that those types of incidences will not happen and that if something were to happen again there is a process in place to deal with the issue. He doesn't feel any comfort that this will not happen again and as an African American male he has fears and questions that if he moved and couldn't remember his zip code, something similar could happen to him.

In response to Mayor Jones, COO Travis Hill expressed that he attended two weeks of the training that the ABC officers are receiving in Richmond and the agents are receptive. The agents are asking for guidance, the training is giving them more tools to interact in their communities in positive ways.

*Mr. Axler stated that he is skeptical of the enforcement of the MOU and want to know how ABC will ensure that the MOU will be adequately followed. How are instances of bias being looked at?*

#### **Public Comment:**

No public comment.

#### **Next Meeting:**

August 26, 1PM-4PM.

#### **5:05 Closing Remarks/Adjourn:**

Brian Moran, Secretary of Public Safety and Homeland Security thanked the members of the panel and the public.